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January 3, 2011

Judge Freda L. Wolfson
United States District Court
District of New Jersey
402 East State Street Room 2020
Trenton, NJ 08608

SUBJECT: *Purpura et al. v. Sebelius et al.*, Case No. 3:10-cv-04814 (D.N.J.)

Dear Judge Wolfson:

Defendants in the above-captioned case request a thirteen-day extension of time, to January 17, 2011, to respond to plaintiffs' motion for summary judgment.

Plaintiffs challenge Congress's recent enactment of comprehensive health care reform legislation. *See* Patient Protection and Affordable Care Act ("ACA"), Pub. L. No. 111-148, 124 Stat. 119 (Mar. 23, 2010), as amended by the Health Care and Education Affordability Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (Mar. 30, 2010). On December 9, 2010, plaintiffs moved for summary judgment, claiming that they are entitled to a "default summary judgment." Dkt. # 16, 18. On December 15, 2010, the U.S. Attorney's Office received a mailing from plaintiffs containing plaintiffs' "Request for Declaratory Judgment" as well as a copy of the complaint filed in Civil Action No. 10-91 in the United States District Court for the Northern District of Florida. Two days later, defendants invoked the automatic extension provided by Local Rule 7.1(d)(5), thus extending the time to file a response to plaintiffs' motion for summary judgment to January 4, 2011. Dkt. # 19. On December 23, 2010, defendants then moved to

stay proceedings on plaintiffs' motion for summary judgment until after this Court issues a decision on defendants' anticipated motion to dismiss under Federal Rule of Civil Procedure 12. Dkt. # 20.

Defendants now request that this Court extend the time to respond to plaintiffs' motion for summary judgment to January 17, 2011. On that date, defendants will also move to dismiss this action under Federal Rule of Civil Procedure 12. This request for an extension is based upon the intervening holidays and the need for sufficient time to respond to the issues raised in plaintiffs' motion and to prepare defendants' own motion to dismiss. Undersigned counsel has conferred with plaintiffs, and plaintiff Nicholas E. Purpura has indicated that plaintiffs do not consent to this requested extension of time.

Accordingly, defendants respectfully request that the Court grant their request and extend the deadline for Defendants to file a response to plaintiffs' motion for summary judgment to January 17, 2011.

Dated: January 3, 2011

Respectfully submitted,

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